

PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AMENDING PERMANENT RULES

The scope statement for this rule, SS 031-20, was published in Register No. 773A1, on May 4, 2020, and approved by State Superintendent Carolyn Stanford Taylor on May 20, 2020.

The State Superintendent of Public Instruction hereby proposes an order to renumber and amend s. PI 34.095 (2); and to create s. PI 34.095 (2) (a) and (b), relating to changes to rules governing substitute educational interpreter licenses.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: ss. 115.28 (7) (c) and 115.76 (14) (a) 2., Stats.

Statutory authority: s. 115.28 (7) (c), Stats.

Explanation of agency authority:

Under s. 115.28 (7) (c), Stats., the State Superintendent has the authority to license and make rules for the examination and licensing of persons, including teachers, employed to provide publicly funded special education and related services, including interpreting services as provided under s. 115.76 (14) (a) 2., Stats.

Related statute or rule:

N/A

Plain language analysis:

The proposed rule amends chapter PI 34 of the Wisconsin Administrative Code with respect to the rules governing the licensing of substitute educational interpreters.

Summary of, and comparison with, existing or proposed federal regulations:

Section 300.34 (c) (4) of the Individuals with Disabilities Education Act defines interpreting services as a related service with respect to educating a child who is deaf or hard of hearing. Under the Act, interpreting services are taken to mean oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and special interpreting services for children who are deaf-blind. However, because education in the United States is typically governed by each state and local government, the Act does not address how states administer the licensure of educational interpreters as a related service. As such, federal regulations are generally silent with respect to the licensure of substitute educational interpreters.

Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account and drafting the proposed rule:

The department held a preliminary public hearing and comment period on May 12, 2020, and received comments on the statement of scope for the proposed rule. A brief summary of comments and the department's response to those comments are as follows:

- There was one respondent that spoke against the proposed rule. The respondent noted the existing difficulty faced by school districts in finding available substitute educational interpreters. They noted that under current rule, substitutes need to be licensed by the Department of Safety and Professional Services and complete an 150-hour

educational practicum, but will have to meeting additional requirements by passing another assessment under the proposed rule. Rather than make it easier for substitutes to cover the needs of educational interpreters in schools, the respondent argues that the change will make it harder.

Agency Response: The rule does not work in the way that is characterized by the respondent. Rather, the proposed rule creates an option for license applicants to obtain a license as a substitute educational interpreter by earning a passing score on the educational interpreter performance assessment. This new option is in addition to the pathway that exists under the current rule. The proposed changes will not create an additional requirement to the current pathway. The comments were forwarded to program staff for their consideration in rulemaking.

Comparison with rules in adjacent states:

- Illinois: There does not appear to be any comparable rules with regard to the licensing of educational interpreter substitutes in Illinois. Educational interpreters working in substitute roles are expected to comply with state licensing requirements for regular educational interpreters.
- Iowa: There does not appear to be any comparable rules with regard to the licensing of educational interpreter substitutes in Iowa. Educational interpreters working in substitute roles are expected to comply with state licensing requirements for regular educational interpreters.
- Michigan: Michigan rules section R 393.5026 (4) provides that upon the absence of a regularly assigned educational interpreter, a long-term substitute interpreter shall be used in an elementary environment when an absence is expected to last more than 20 school days. A long-term substitute interpreter is required to possess Level II certification by the Board of Evaluation of Interpreters if the substitute interpreter performs work in an elementary school setting, or obtains a score of 3.5 on the educational interpreter performance assessment if the substitute interpreter performs work in the secondary school setting. Additionally, Michigan rules section 393.5026 (5) provides that upon the absence of a regularly assigned educational interpreter, a short-term substitute interpreter shall be used if the absence is expected to last 20 school days or less and is qualified to work in the elementary school setting if the applicant obtains a score of 3.5 on the educational interpreter performance assessment.
- Minnesota: There does not appear to be any comparable rules with regard to the licensing of educational interpreter substitutes in Minnesota. Educational interpreters working in substitute roles are expected to comply with state licensing requirements for regular educational interpreters.

Summary of factual data and analytical methodologies:

Chapter PI 34 governs the licensure of school personnel, including short-term substitutes in an educational interpreter assignment who may be authorized by holding a 5-year renewable license by the department (s. PI 34.095). Under the current rule, applicants who wish to obtain a substitute interpreter license must hold certification from an organization approved by the state superintendent in consultation with the state superintendent's Advisory Council on Deaf and Hard of Hearing Programs, or holds one of the following licenses or certifications required for licensure under s. PI 34.086 (3) (a): 1) a sign language interpreter license issued by the Wisconsin Department of Safety and Professional Services; 2) a certification from the National Registry of Interpreters for the Deaf; or 3) a basic, advanced, or master certification from the Board for Evaluation of Interpreters.

Additionally, Chapter PI 34 also governs the licensure of educational interpreters who must, in part, pass the educational interpreter performance assessment (EIPA) with a cut score set by the State Superintendent in consultation with the State Superintendent's Advisory Council on Deaf and Hard of Hearing Programs in order to obtain licensure. Upon consultation with the advisory council, the department proposes to adjust its practices with respect to licensure for educational interpreters and create consistency in the requirements for both types of educational interpreter licenses. The department proposes to permit that applicants for a substitute educational interpreter license may pass the performance EIPA, with a cut score set by the State Superintendent in consultation with the State Superintendent's Advisory Council on Deaf and Hard of Hearing Programs, in order to obtain licensure. Without a rule change, the department would be required to implement the current standards for substitute educational interpreters as they exist in the current rule.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

N/A

Anticipated costs incurred by private sector:

N/A

Effect on small business:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency contact person: (including email and telephone)

Carl Bryan
Administrative Rules Coordinator
Wisconsin Department of Public Instruction
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Place where comments are to be submitted and deadline for submission:

Comments should be submitted to Carl Bryan, Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at adminrules@dpi.wi.gov. The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

SECTION 1. PI 34.095 (2) is renumbered PI 34.095 (2) (intro.) and amended to read:

PI 34.095 (2) ELIGIBILITY. The state superintendent may issue an educational interpreter, short-term substitute license under this section to an applicant who meets ~~the requirements under s. PI 34.086 (3) (a) or holds certification from an organization approved by the state superintendent in consultation with the state superintendent's advisory council on deaf and hard of hearing programs.~~ one of the following requirements:

SECTION 2. PI 34.095 (2) (a) and (b) are created to read:

PI 34.095 (2) (a) Provides evidence of a passing score on the performance educational interpreter performance assessment. The passing score shall be set by the state superintendent in consultation with the state superintendent's advisory council on deaf and hard of hearing programs.

(b) Obtains or maintains one of the licenses or certifications listed under s. PI 34.086 (3) (a).

SECTION 3. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this _____ day of _____, 2020

Carolyn Stanford Taylor
State Superintendent